App. IX-4]

1923-24

File No. 56-23

Previous References. C. B.)

Serial Nos. 14 F

Later references.

PP 69-36(1-6)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 4 F

Part B for

SUBJECT

Enquiry from the Revenue in regard to suit instituted in the Mysore Court against the Secretary of State for India.

4782 g24.

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. 3775 Enc.

480-1904.

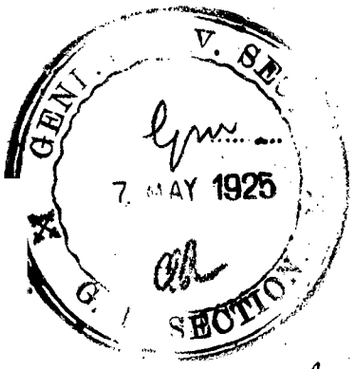
CB 1761.

~~P.P. III-21-215~~

CB 56-23-14

From

Major K. A. G. Evans Gordon,
SECRETARY TO THE RESIDENT IN MYSORE.



Pol. 1259

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

Dated Bangalore, 6th May 1925

Subject.

SUITS IN MYSORE COURTS AGAINST THE SECRETARY OF STATE FOR INDIA.

Sir,

With reference to the suit for compensation instituted by Mr. C. Raghunatha Rao in the Court of the Subordinate Judge, Bangalore, against the Mysore Government and the Colonel Commandant of the Bangalore Brigade Area, I am directed to enquire whether there have been any cases of suits instituted in the Mysore Courts against the Secretary of State for India. A very early reply is requested.

I have the honour to be,

Sir,

Your most obedient servant,

Major,
SECRETARY TO THE RESIDENT.

APP. F. III—41

4782

General and Revenue Secretariat.

P.S File No. 117 of 1924

erial No.

Sub:- S. 86 of the British Indian C.P.C. contains provision for suing in British Indian courts Ruling chiefs & princes. With the previous sanction of the Govt. of India in Council But there is no corresponding provision in our Code. Doubt is felt Therefore if our courts have jurisdiction against the Secy. of State for India especially as the external sovereignty lies with the British Govt.

Further the Govt cannot be sued in tort for the wrongful action of its employees. So we pray for orders.

Sd/- K
9/5/25

NOTE—Contn. Sheet

Serial No.

To Mysore, the Secretary of State for India, stands in the position of a representative of a foreign Sovereign and in accordance with the principles of international law enjoys absolute privilege from being sued. A foreign Sovereign or his Ambassador Cannot be sued against his will (a) although he may appear as plaintiff and enforce a Contract (b) A foreign Sovereign does not subject himself to the jurisdiction of our Courts even though he resides in the Country as a private person He can of Course submit himself to the jurisdiction of our Courts, if he likes.

In Re. India the position is different, because the right to sue the Secretary of State is given by Statute (c) in cases in which the East India Co. could be sued. As regards foreign Sovereigns and ruling princes, the Code of Civil Procedure provides for suits against them in certain cases, with the Consent of the Governor General. Our Code of Civil Procedure has no such provisions, and could not have any, having regard to the accepted principles of International Law. No suits can be entertained against Mysore against the Secretary of State for India as such, and it is unfortunately

International Law
Hullet Vs King of Spain 4 Oppenheim 2 Edn. 310.

(a) Mighell Vs Sultan of Johore (1894) 1 Q.B. 149.

(b) Taylor Vs Best 23 L.J. 89. also (1914) 1 Ch 139.

1 Q.B. 149.
II Cal. L.J. 163 (1905)

(c) 21 & 22 Vict C 106

Serial No.

Learnt from the Chief Court that there have been no such cases ~~as~~ as it appears, however, that the suit is against the Commandant and not against the Secretary of State. There is no objection to such a suit which may be considered as one for damages for a tort committed in respect of Compensation and can be instituted as a express Contract. The Commandant can, however, object to the jurisdiction of our Courts, saying he is a foreign subject, and a decree passed in such a case will be a nullity unless he is prepared to submit to the jurisdiction of our Courts (a) Taken in any light, ~~the Commandant can escape liability~~ — whether is a suit against the Secy of State or a foreign subject, the Court will not be competent to entertain the suit & pass a decree, unless no objection is taken to the jurisdiction of the Court. As the dispute is about the amount of Compensation to which the Plaintiff is entitled, ~~it is open to the Secy of State to~~ and though no suit may lie against the Commandant or Secy of State, any decision, (about the quantum of Compensation), that

(a) Gurmukhal Singh Vs the Rajah of Faridkote XXII Cal 222 XV Mad 42

NOTE—Contn. Sheet

Serial No.

G.R.S. III—31

4782/P/1924

Laws

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

4782/P/1924
Dist Secy.
11/5.

(Copy of the Residency letter with Dewan's orders "early" was also sent on 11-5-25.

Residency letter No.3775/480-1904 dated 6th May 1925 enquiring if there had been any cases in which Secretary of State for India was sued in the Mysore Courts which was sent for a note on the 7th May 1925 may be kindly returned early with the required information.

The matter is pending long & requires attention without delay. 12.6.25

The Secretary,
Local and Legislative Departments,
with compliments.

Rec'd on 16.6.25
Cas
16/6

Submitted
Cas
12/6

Submitted with note
Cas
15/6

Ltl Secy

Reply that there are no such lists pending & refer to the remarks in the note

Cas

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form

The file was referred to from the Chief Secty maybe sent back there

Cas.
18/6

P.B

Draft reply submitted

Dist
19.6.25

19.6.25

G.R.S. III+3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.

To the Secretary to the Revenue
No Pol. To 83 & 22. 6. 93
States that it is ascertained
that there have been no
suits filed in the Mysore
courts against the Secretary
of State for India.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

G. R. S. VI—G/32]

SUBJECT...

Diary No. of letter replied to-

Section C. B.

File No.

Serial No

General and Revenue Secretariat

No. Pol. 1053

, *the* *191*

Date of issue 22/6/25

Signed by Int. B. R.

To

The Secretary to the Hon'ble
Resident in Mysore.

Sir,

With reference to your letter no 3775 of 6th June 1925 enquiring whether there have been any cases of suits instituted in the Mysore Courts against the Secretary of State for India, I am directed to state that it is ascertained that there have been no such suits filed in the Mysore courts.

over.

Chief Secy

19.6.25

Asst.
19.6.25

List of enclosures.

Copied by

Examined by